



Public Records Manual

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NRS 239.008



Statute addresses

- ☒ Agencies of the Executive Department
- ☒ Assignment of Records Official
- ☒ Form for a Request
- ☒ Form for the Written Notice
- ☒ Regulations by NSLAPR/OAG
- ☒ Agency Website to access forms and procedures

Regulations

NAC 239.860 thru NAC 239.869





Definitions

➤ Readily Available

NAC 239.860 “Readily available” interpreted. For the purposes of [NRS 239.0107](#), as applicable to an agency of the Executive Department, a public record is “readily available” if:

1. The public record is easily retrievable by an officer, employee or agent of the agency who has legal custody or control of the record;
2. The public record does not contain any confidential information; and
3. The nature of the public record is such that an officer, employee or agent of the agency who has legal custody or control of the record is not required to review the record to determine whether the record includes confidential information.

➤ Readily Available Medium

NAC 239.861 “Readily available medium” interpreted. For the purposes of [NRS 239.010](#), as applicable to an agency of the Executive Department, “readily available medium” means any format in which a public record exists with the agency at the time that a person requests to inspect, copy or receive a copy of the public record.



Agency Website information

- Address and regular office hours
- Contact of records official
- List of fees
- How to request to inspect, copy or receive a copy of a public record
- A link to the request form

Form for Request

- The name, address and telephone number of the person submitting the request
- The date of receipt
- A description of the public record that is sufficient to identify the record
- An indication of whether the person submitting the request wants to inspect, copy or receive a copy of the public record
- If the person wants to receive a copy of the public record, an indication of format and method of distribution
- Affirm:
 - There may be a fee
 - Will receive a written estimate if the fee is more than \$25
- Email address or fax number if such distribution method is requested



If a Record does not exist

- ➡ No requirement to create a record



Request

- Records Hold
- Claiming the request within 30 days



Procedures Manual

- Nevada Public Records Act: A Manual for State Agencies
- <https://nsla.nv.gov/public-records//>



Scope

➤ Agencies of the Executive Department

- NRS 239.005(2) “Agency of the Executive Department” means an agency, board, commission, bureau, council, department, division, authority or other unit of the Executive Department of the State Government. The term does not include the Nevada System of Higher Education.

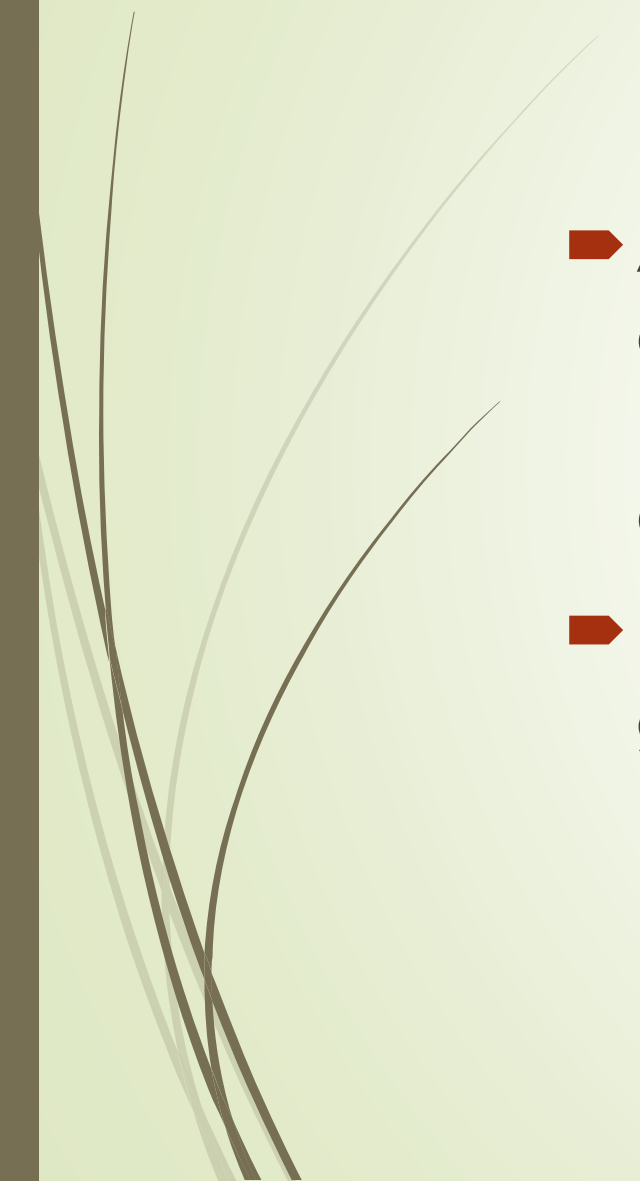
➤ Not FOIA... NPRA

➤ If violating act, a deliberate concealment of public records may result in a risk of criminal conviction

➤ Good faith compliance



Official Records

- Adequate and proper documentation of the organizational functions, policies, decisions, procedures, and essential transactions of the agency NRS 230.005(6)
 - Protect the legal and financial rights of the government and of its citizens
- 

Retention & Disposition of Official Records

- NRS 230.080
- Systematic disposition of records according to the retention timetable.
- A planned activity -- part of the agency's regular course of business.
- Haphazard or selective destruction of records may raise suspicion concerning the reliability and authenticity of the agency's record keeping system



KEEP
CALM
AND
CALL
State Records

775-684-3411



The Act makes it clear

- **NRS 239.083(4)**

- Failure to retain records in accordance with an approved schedule may result in a reprimand or in a more severe disciplinary action.



Personal devices

- Official records on personal devices
 - Personal records on state devices
- 

Public Records



- ...all public books and public records of a government entity, the contents of which are not otherwise declared by law to be confidential...
- If you are uncertain, then treat it as a public record



Identifiable record

- A request should be for an identifiable record that exists at the time of the request
- Not required to organize data to create a record that doesn't exist at the time of the request
- Not required to provide access to records that were not identified within the request
- A request for general information is not a public records request

Confidential Records



- Records official must know and understand the specific statutes which declare records of the agency to be confidential



Agency Responsibilities

- Establish reasonable policy and procedures
- Be informed about public records and records management laws
- Appoint a records official
- Make a form for requesting public records easily available
- Treat all requesters uniformly
- Give to the requester all reasonable accommodations for inspection, including accommodations in accordance ADA requirements
- Provide an opportunity for individuals with disabilities to request public records in an alternative form



Records Officer

- NRS 239.008
- Coordinate the agency's response to requests for access to public records
- Create agency procedures for public records requests
- Aware of all laws and regulations relating to official records, confidential records, and records retention requirements of the agency

Policy

- Includes
 - Procedures for making a request
 - Contact for public records official
 - Response process
 - Fee structure

**IMMEDIATE
ACTION!
REQUIRED**

#64828852

Form

- NAC 239.863
- Customize
- Make readily available



Web site

- NRS 239.008
- Records Official
- Access procedures
- Public records request form
- Applicable fees



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Responding to a request



Response

- Disclosure: Permit access to the record
- Redaction: Disclose the record in redacted form
 - Deny in Part
- Denial: Withhold the record completely
 - Deny in Whole



Access

- Inspection
 - Copy
- 

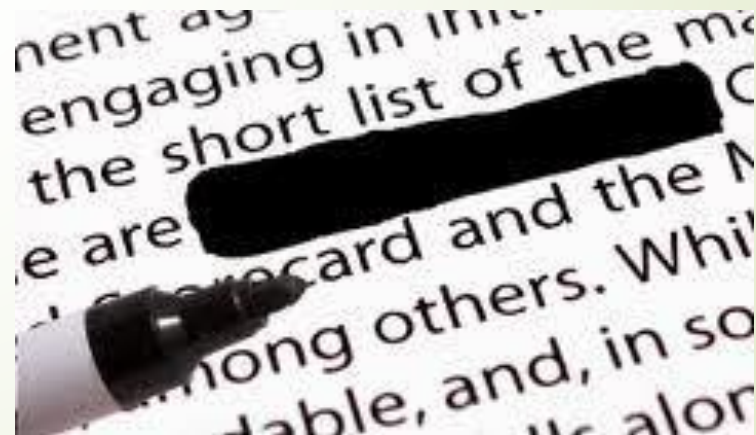


Redaction

- Redact, delete, conceal, or separate confidential information, release remainder
- Written denial notice for redaction

Written Denial Notice

- A description of the redacted information
- The legal citation and text of the statute or other provision(s) regarding the basis for denying access





Denial

- Requires law be interpreted liberally in favor of access
- Any exemption must be interpreted narrowly

Written Denial Notice

- A description of the withheld record(s)
- The legal citation and text of the statute or other provision(s) regarding the basis for denying access



Posting

- Fees
 - Actual costs
- Deposits
- Waiving fees policy
- Extraordinary fee use policy





Extraordinary Use Fee

- Not to exceed 50 cents per page
- Must be made in writing
- Must submit a written estimate of the fee before preparing the records



Extraordinary Use Fee

- Policy
 - Must be reasonable
 - Based on the cost that the agency actually incurs for the extraordinary use of personnel or technological resources
 - Not with the intent of excluding persons from access
- A “busy office” is not an extraordinary situation.
- No statutory-defined time established for extraordinary use



Deadlines



Request Received

- Time is critical in responding to public records requests
- An agency should never delay a response time the basis that the office is too busy or that a key employee is unavailable

Request Received – Day Zero



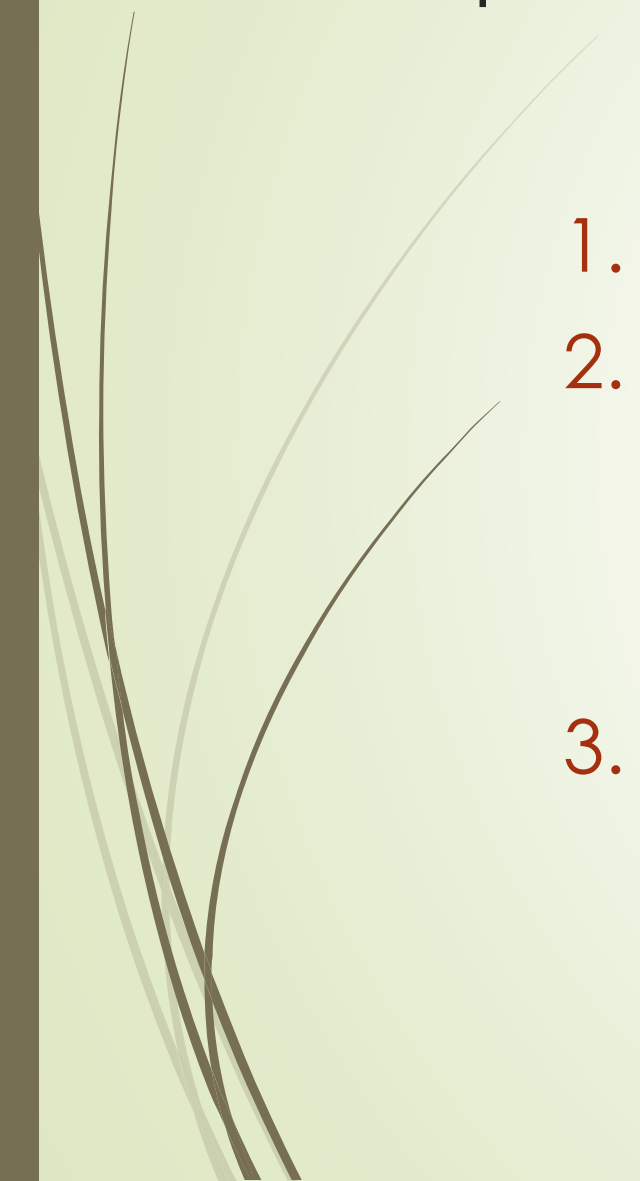
- The five-day response period starts with the first calendar day after the date of receipt



What's
Next?



Request Received – Day One to Day Five

- 
1. Readily available records are made available
 2. A written notice stating the agency does not have custody of the official record. The notice shall state the name and address of the appropriate agency.
 3. A written notice stating the records are not available within this five-day period and the date and time the records will be made available.

Request Received – Day One to Day Five

4. A written notice if
 - a fee is required and the agency requires prepayment
 - the estimated fee exceeds \$25
 - it meets extraordinary use of personnel or technological resources
5. A written notice stating the request for release is denied in part or in whole



Appealing denial

District Court



Sxth Judicial District Court
Humboldt County

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summary

Summary

- The audience is executive branch agencies, boards and commissions.
- NRS does not currently define a public record.
- Confidential records are exempt from public records access.
- Records shall be organized and easily accessible, and retained according to the retention schedule.
- Public records requests must be for identifiable records.



Summary



- Each agency shall develop a Public Records policy
- Each agency shall appoint a records official
- Each agency shall post policy in an easily accessible location in the office and on the agency website
- Respond to a request within 5 business days following the date received

